



Administrative Policies and Procedures: 16.39

Subject:	Subsidized Permanent Guardianship Agreements
Authority:	TCA 37-5-106 and Subsidized Guardianship Federal Waiver
Standards:	DCS 2-102 A, 2-104 A, 2-501, 2-600
Application:	All DCS Family Service Workers, Permanency Specialists and Supervisory Staff

Policy Statement:

Children who meet the eligibility criteria for the Subsidized Permanent Guardianship Federal Waiver Demonstration Project can receive a subsidy, based on the documentation of eligibility, so long as funds are available.

Purpose:

Subsidized Permanent Guardianship monthly maintenance payments help defray some of the cost of caring for a child. It should be utilized to meet the child's needs. This policy is to inform staff and resource families of the basic eligibility criteria, the process of applying for Subsidized Permanent Guardianship, and maintaining the Subsidized Permanent Guardianship payments.

Procedures:

A. Criteria for Subsidized Permanent Guardianship Eligibility

In order for a child to be eligible for Subsidized Permanent Guardianship the child must meet the following guidelines:

1. Child must be in Department of Children's Services custody for 9 of the last 12 months.
2. Child must be living in the home of the relative/kin for at least the last 6 months.
3. Child must be randomly selected from one of the pilot regions or a child with a goal of Planned Permanent Living Arrangement and been selected during the two PPLA data pulls.
4. Child must be assigned to the Experimental Group.
5. Caregiver is an approved resource home at the time of the child's exit from DCS custody.
6. Reunification and Adoption have been ruled out as permanency options.
7. All other criteria for Subsidized Permanent Guardianship are met.

B. Determining Funding Source	<ol style="list-style-type: none"> 1. A child's Subsidized Permanent Guardianship may be funded through Title IV-E if: <ol style="list-style-type: none"> a) The Child Welfare Benefits Unit determined that the child meets the July 16, 1996 AFDC (Aid to Families with Dependent Children) technical requirements or was Supplemental Social Security Income (SSI) eligible at the time of removal from the home and at the initiation of the subsidized permanent guardianship placement and within the month of filing the guardianship petition. b) The child was eligible for SSI prior to exiting DCS custody to permanent guardianship c) The child was eligible for Subsidized Permanent Guardianship through Title IV-E funding in a previous custodial episode and the guardianship terminated or the guardian(s) are deceased. 2. Any child who is not eligible for Subsidized Permanent Guardianship Title IV-E funding, but was in the custody or guardianship of TN DCS immediately prior to the initiation of the guardianship proceedings may be eligible for Subsidized Permanent Guardianship through Tennessee State funding. <p>Note: A child's Subsidized Permanent Guardianship funding source will be determined by the completion of form CS-0821, Certification of Eligibility for Title IV-E State Funded Subsidized Permanent Guardianship.</p>
C. Subsidized Permanent Guardianship Request Process	<ol style="list-style-type: none"> 1. Complete Subsidized Permanent Guardianship Checklist and Approval, form CS-0784, two to three weeks prior to the child/youth exiting custody to Permanent Guardianship. This step is necessary to confirm that the child's/youth's eligibility criteria is met. 2. Documentation must be gathered and reviewed with the potential guardian(s) in order to determine the child's eligibility for Subsidized Permanent Guardianship. 3. If a Special or Extraordinary Rate is being requested, the documentation must include a statement from the child's physician or treatment professional that provides the diagnosis and prognosis and identifies any current treatment being provided. 4. The Permanency Specialist with the Family Service Worker (FSW) or the Private Provider Representative gathers their initial supporting documentation. 5. During the initial Subsidized Permanent Guardianship negotiation, the following information must be explained to the prospective guardian(s): <ol style="list-style-type: none"> a) All known medical/psychological/psychiatric needs of the child. b) If the parent <i>elects</i> not to cover the child under <i>available</i> group family plan, TennCare will be the only available payment option for medically necessary expenses. c) Title IV-E children who subsequently transition into the Subsidized Permanent Guardianship (SPG) Program are categorically eligible for Medicaid. d) Children receiving Subsidized Permanent Guardianship through state

	<p>funding may be eligible for TennCare or successor plan in Tennessee if the child has medical or rehabilitative needs. Children receiving Subsidized Permanent Guardianship through state funding may be eligible for Medicaid if residing outside Tennessee depending on the regulations of that state.</p> <p>e) Subsidized Permanent Guardianship will not pay medical, psychological, psychiatric, dental, hospitalization, residential treatment services or for medical equipment for a child who is eligible for private insurance or TennCare/Medicaid. In cases where such services are paid, the amount will be based on the TennCare rate for that service.</p> <p>6. Following the documentation review and discussion regarding the child's current status if the child meets eligibility, and if the family agrees to continue the process, they will work with the permanency specialist to complete an <i>Intent to Obtain Permanent Guardianship/Subsidized Permanent Guardianship Application, form CS-0719</i>.</p> <p>7. This form will solidify the family's intention to provide permanence through permanent guardianship for the child, allow them to request a subsidy, and will inform them of the proposed Subsidized Permanent Guardianship benefits prior to the transfer of guardianship.</p> <p>8. In cases where a child's needs are beyond the scope of a regular rate, a <i>Special or Extraordinary Board Rates Request, form CS-0674</i> must also be presented with <i>form CS-0719, Intent to Obtain Permanent Guardianship Placement Agreement and Application</i>.</p> <p>9. During the Subsidized Permanent Guardianship negotiation process, the potential guardian(s) must provide documentation specifying if private insurance is available and if the family plans to place the child on the policy. It is acceptable if the family plans to add the child to a state sponsored insurance plan (i.e., TennCare) (see Criteria for Authorizing TennCare).</p>
<p>D. Subsidized Permanent Guardianship Agreement</p>	<p>1. The <u>initial</u> <i>Subsidized Permanent Guardianship Agreement, form CS-0721</i>, must be completed without leaving blank spaces using N/A as appropriate. It must also be reviewed, approved and signed by the Team Coordinator of the Permanency Specialist. The Permanency Specialist's Team Leader may sign all revisions or renewal/re negotiations.</p> <p>2. Services for treatment related to a diagnosis documented prior to transfer of guardianship will be included in the initial agreement with a notation under cost as "TennCare or successor plan rate."</p> <p>3. The Permanency Specialist will review the <i>Subsidized Permanent Guardianship Agreement, form CS-0721</i>, with the guardian(s) and secure their signature prior to transfer of guardianship. The information on this form will include rates to be paid for the conditions discussed during the negotiation period and approved on <i>form CS-0719, Intent to Obtain Permanent Guardianship Placement Agreement and Application</i>.</p> <p>4. All Subsidized Permanent Guardianship Agreements must be completed prior to the transfer of guardianship. Subsidized Permanent Guardianship payments can begin following the transfer of guardianship and cannot be made prior to that time. The family will receive foster care board payments</p>

	<p>until the transfer of guardianship occurs.</p> <ol style="list-style-type: none">5. Subsidized Permanent Guardianship payments are made monthly based on a daily payment amount for the previous month's care.6. No subsidized guardianship application or agreement is valid without the appropriate DCS staff approval signature on the agreement or application.
E. Payments and Services included in Subsidized Permanent Guardianship	<ol style="list-style-type: none">1. Payments and/or services included in the Subsidized Permanent Guardianship agreement will be based on the conditions that are supported by the accompanying documentation.2. A statement from the treatment professional must be obtained documenting that treatment is medically necessary when requesting a Special or Extraordinary rate.3. When the child is ineligible for private insurance and TennCare (Medicaid), the state will ensure the maximum TennCare payment rate.4. If the state does not have a contract with the provider, the maximum payment for the service will be the TennCare (Medicaid) rate for that service.
F. Payments and Services Not Included in Subsidized Permanent Guardianship	<p>The following items or services cannot be considered in determining the Subsidized Permanent Guardianship rate if a Special or Extraordinary rate is being requested:</p> <ol style="list-style-type: none">a) School Tuition and/or tutoring,b) Summer Camp or Day Care,c) Riding Therapy, Dance or Gymnastics,d) Computers and/or Computer Software<ul style="list-style-type: none">◆ (Exceptions may made be made for severely handicapped children by the Director of Foster Care and Adoptions)e) Dentistry or Orthodontia<ul style="list-style-type: none">◆ (Exceptions may be made for documented cases of medical necessity by the Director of Foster Care and Adoptions)f) Vehicles to transport childreng) Major Home Renovations<ul style="list-style-type: none">◆ (i.e. fences, pools, extra rooms, or accessibility modifications)h) Routine medical expenses<ul style="list-style-type: none">◆ (i.e. Over the counter medications, doctor visits or hospitalizations unrelated to the child's documented special needs)

G. Subsidized Permanent Guardianship Rates	<ol style="list-style-type: none"> The Subsidized Permanent Guardianship Rates are categorized in three levels: <ol style="list-style-type: none"> The Regular Subsidized Permanent Guardianship Rate—Check the following web link for the most current Subsidized Permanent Guardianship daily rate: http://www.intranet.state.tn.us/chldserv/AssistanceRatesChangeNotice.htm The Special Circumstance Subsidized Permanent Guardianship Rate—Check the following web link for the most current Subsidized Permanent Guardianship daily rate: http://www.intranet.state.tn.us/chldserv/AssistanceRatesChangeNotice.htm The Extraordinary Subsidized Permanent Guardianship Rates are determined on a case-by-case basis, but do not exceed \$60.00 per day. Each rate is negotiated, based on the age of the child and a review of the child's documented level of need, and are <u>not</u> linked to the means of the resource family. The Subsidized Guardianship rate may not exceed the amount of a child's final or most recent resource home board rate payment. Any approved Subsidized Permanent Guardianship will be paid according to the terms outlined in Subsidized Permanent Guardianship Agreement, form CS-0721, subject to funding availability and may be modified at the annual renewal/renegotiation based on changes in policy or significant changes in the child's circumstances.
H. Regular Rates	<ol style="list-style-type: none"> The regular rate is available to any child who meets the criteria outlined in Section A of the procedural portion of this policy. If there are significant changes in the child's circumstances and the family wishes to request a different rate, the steps outlined for the special or extraordinary rates must be completed (Section D of this policy).
I. Special Circumstance Subsidized Permanent Guardianship Rates	<ol style="list-style-type: none"> Special Circumstance Rates are designed for the children with unique needs due to a diagnosed medical or mental health condition or a child who requires a level of supervision exceeding that of his/her peers or extra care due to physical, emotional, or mental handicaps. Children with special behavioral problems or alcohol and drug issues may also be eligible. Permanency Specialists must complete Section A of the Special or Extraordinary Board Rates Request, form CS-0674 and submit it to the team coordinator if the child is currently receiving this rate and it is being requested for Subsidized Permanent Guardianship. If the child is residing in a Private Provider resource home and the family requests approval of the special circumstance rate, the Private Provider representative, in collaboration with the Permanency Specialist, must complete the form CS-0674, Special or Extraordinary Rate Request and submit it, along with supporting documentation from the treating professional involved with the child. The request must include proof of the rate the Private

	<p>Provider pays the resource parent.</p> <ol style="list-style-type: none"> 4. The team coordinator shall within five (5) working days respond in writing to the request. If approved, a copy of the approval, along with the supporting documentation must be filed in the child's Subsidized Permanent Guardianship case file. 5. The Central Office Review Committee is available to provide assistance in cases where negotiations have reached an impasse at the regional level. Regional staff is encouraged to participate in the discussions with the Central Office Review Committee when such cases occur. Once the request for assistance is received in Central Office, the committee should convene within seven working days.
J. Extraordinary Subsidized Permanent Guardianship Rates	<ol style="list-style-type: none"> 1. Extraordinary Subsidized Permanent Guardianship rates are reserved for children whose needs are so unique and extensive that they cannot be met at the regular or special circumstance rate. The Permanency Specialist may submit a request to the Regional Administrator/designee for an extraordinary rate if the child is currently receiving this rate and the rate is being requested for Subsidized Permanent Guardianship. The Regional Administrator/designee will work with the Regional Health Units regarding children who may meet criteria, as outlined in the scope of services, for medically fragile. 2. The request must be made in writing to The Regional Administrator/designee, utilizing the Special or Extraordinary Board Rates Request, form CS-0674, and attaching medical and/or psychological documentation, as well as a functional assessment and/or any additional material needed to adequately describe the child's condition. 3. If the child is residing in a Private Provider resource home, the Private Provider Representative, in collaboration with the Permanency Specialist, must submit the request, form CS-0674, Special or Extraordinary Rate Request and supporting documentation to the Regional Administrator/designee responsible for approving Subsidized Permanent Guardianship. The request must include proof of the rate the Private Provider pays the resource parent. 4. The Regional Administrator/designee shall review the request for an extraordinary rate within five (5) days of receipt; <ol style="list-style-type: none"> a) The Office of Foster Care and Adoption will provide updated rate codes to the Permanency Specialist and Private Provider Representative, so they may proceed with the regional process for contract completion. b) A copy of the approval, along with the supporting documentation must be filed in the child's Subsidized Permanent Guardianship case file. 5. An eligibility determination for an Extraordinary Resource Home Board Rate does not guarantee eligibility for an Extraordinary Subsidized Permanent Guardianship Rate. Only after a review of the current documentation presented with form CS-0674, Special or Extraordinary Rate Request will it be possible to determine the appropriate Subsidized Permanent Guardianship rate.

	<ol style="list-style-type: none"> 6. A permanent guardian may request re-negotiation of the Subsidized Permanent Guardianship rate at any point after the initial approval, if the child's needs have changed. When the parent requests an increase in the Subsidized Permanent Guardianship rate, they must be informed that current medical/psychological documentation must be provided. The documentation must be reviewed to determine if the current level of assistance is still appropriate. 7. The Central Office Review Committee is available to provide assistance in cases where the negotiations have reached an impasse at the regional level.
K. Subsidized Permanent Guardianship Revisions or Renewal/ Renegotiations	<ol style="list-style-type: none"> 1. Renewal/renegotiation of Subsidized Permanent Guardianship is required annually in order for Subsidized Permanent Guardianship, paid at any rate, to continue. The resource parents must return a completed <i>Subsidized Permanent Guardianship Renewal Affidavit, form CS-0722</i> within the timeframes outlined in <i>form CS-0721, Subsidized Permanent Guardianship Agreement</i>. 2. Revisions may be requested at any time that there is a <u>significant</u> change in the child's circumstance and the permanent guardian can provide the required/requested documentation. 3. For all children who are approved for a special or extraordinary Subsidized Permanent Guardianship rate, the permanent guardian must attach current documentation received from the service provider, in addition to <i>form CS-0674, Special or Extraordinary Rate Request</i>. This documentation must verify the following: <ol style="list-style-type: none"> a) Current diagnosis, prognosis, and summary of treatment services for the previous year. b) An estimated summary of services which will be necessary to meet the continued special or exceptionally uncommon needs of the child. 4. At the time of renewal, if the supporting documentation shows that the child's condition has improved, the state shall work with the guardian to renegotiate the subsidy agreement to the age appropriate Subsidized Permanent Guardianship rate. 5. Renewal/renegotiation requests for special or extraordinary rates will revert to the age appropriate regular Subsidized Permanent Guardianship rate if or until the supporting documentation is submitted and approved; this is provided <i>form CS-0722, Subsidized Permanent Guardianship Renewal Affidavit</i> was returned completely and timely. Once the appropriate documentation is received, reviewed, and approved for a special or extraordinary rate, the identified rate can begin upon approval. No retroactive payments of the special or extraordinary rate amounts will be made. 6. Documentation of continued eligibility is required annually for children who receive Subsidized Permanent Guardianship at any rate. The Subsidized Permanent Guardianship payments granted at the time of renewal will reflect the child's current, documented level of need.

L. Termination of Subsidized Permanent Guardianship	<p>Termination will occur if any one of the following circumstances occur:</p> <ol style="list-style-type: none">1. Upon the permanent guardian(s) request,2. If the permanent guardian(s)' legal responsibility to the child ends,3. If the state determines that the child is no longer receiving financial support from the permanent guardian(s),<ul style="list-style-type: none">♦ If a child is receiving Subsidized Permanent Guardianship and enters state custody, the agreement will be terminated until such time that the child is reunified with the permanent guardian.4. Upon the conclusion of the terms of the Subsidized Permanent Guardianship Agreement,5. If the child marries,6. If the child joins the military,7. If the child dies, or8. If the permanent guardian(s) dies,<ul style="list-style-type: none">♦ When the person with whom a subsidy agreement is made dies before the child reaches twenty-one (21), maintenance subsidy payments can be continued to the legal guardian named by the permanent guardian of the child until he or she reaches age eighteen (18) or, in some cases twenty-one (21), once the guardian is legally recognized by the court.9. If the Department of Children's Services determines that the family fails to complete the renewal/renegotiation process within the time frames outlined in the Subsidized Permanent Guardianship Agreement,10. For those children who have state funded Subsidized Permanent Guardianship and remain in high school full-time, their Subsidized Permanent Guardianship ends at graduation or age 19, whichever event comes first.<ul style="list-style-type: none">♦ For Title IV-E children, Subsidized Permanent Guardianship will be provided until the child is 21 years of age if the child has a documented mental or physical handicap, which warrants continuation.11. Notice of Change is required by guardian if the circumstances of the child changes, as in the child turning 18 during their senior year of high school and deciding to move from the guardian's home. Subsidy will cease on date of movement from the guardian's home.
M. Appeals	<p>Permanent Guardian(s) may appeal the Department's decision to deny, terminate or change their child's Subsidized Permanent Guardianship in accordance with rules and procedures of the State's fair hearing and appeal process. Permanent Guardian(s) must appeal an adverse decision within ten (10) business days of written notice of adverse action. Subsidized Permanent Guardianship may continue pending the determination of an appeal, but payments will be suspended for appeals filed for circumstances identified in section O above. Families who receive a favorable ruling in their hearing would be entitled to assistance that had been suspended. If adverse action is upheld during an</p>

	<p>appeal, payments continued during the appeal period will be considered an overpayment and will be subject to recovery. The following are the steps of the appeals process:</p> <ol style="list-style-type: none"> 1. If the DCS determines that Subsidized Permanent Guardianship will be denied, terminated or changed, the Permanency Specialist or Subsidized Permanent Guardianship Designee must notify the resource family immediately, in writing, utilizing a <i>Notice of Denial Termination, or Change in Subsidized Permanent Guardianship</i> letter, CS-0720. An <i>Appeal for Fair Hearing, form CS-0403</i> must be given to the guardian(s) at the same time the <i>Notice of Denial, Termination, or Change in Subsidized Permanent Guardianship</i> letter is given. 2. The notice letter, CS-0720, must be dated with the same date it is <u>mailed</u> or, if hand delivered, the date it is hand delivered to the family. 3. The Administrative Procedures Division must also be sent a copy of all notification documents that were provided to the family. 4. The family must be informed about the timeframe in which the have to file an appeal. They must also be provided with the fax number and the mailing address to send the <i>Appeal for Fair Hearing, form CS-0403</i>. 5. The Administrative Procedures Division will notify the appropriate county office if an appeal of Subsidized Permanent Guardianship is received. Once notified by the Administrative Procedures Division, the county must follow the direction of that office to ensure due process protocol is followed. 6. DCS staff must complete an appeal summary as directed by the Administrative Procedures Division. 7. Additional information may be accessed by contacting the TN DCS Administrative Procedures Division at: <p style="text-align: center;">1268 Foster Avenue, NIX 1 Nashville, TN 37243 Phone: # 615-741-1110 FAX: 615-741-4518</p>
N. Records Management	<p>Complete information about a child's/youth's eligibility for Subsidized Permanent Guardianship, including requests, agreements, revisions, yearly renewals and closures must be maintained in a Subsidized Guardianship case file. Case file documentation must be uniform for all active Subsidized Guardianship cases (see <i>Protocol For Subsidized Permanent Guardianship Case File Contents</i>).</p>

Forms:	<u>CS-0719 – Intent to Obtain Subsidized Permanent Guardianship/Subsidized Permanent Guardianship Application</u> <u>CS-0674 – Special or Extraordinary Board Rates Request</u> <u>CS-0721 – Subsidized Permanent Guardianship Agreement</u> <u>CS-0722 – Subsidized Permanent Guardianship Renewal Affidavit</u> <u>CS-0720 – Notice of Denial, Termination, or Change in Subsidized Permanent Guardianship</u> <u>CS-0784- Subsidized Permanent Guardianship Checklist and Approval</u> <u>CS-0403 – Appeal for Fair Hearing</u> <u>CS-0829- Certification of Eligibility for Title IV-E Subsidized Permanent Guardianship</u> <u>Substitute W-9</u>
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Collateral Documents:	Documentation to support the Subsidized Permanent Guardianship Agreement <u>Protocol For Subsidized Permanent Guardianship Case File Contents</u> <u>Criteria For Authorizing TennCare</u>
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Glossary:	
Permanency Specialist:	This is a DCS term used to identify the position previously known as DCS Adoption Specialists. This person is principally responsible for preparing children and families for permanence through subsidy contracts negotiating and preparing Adoption Assistance, and maintaining technical knowledge of all permanency options.
TennCare (or successor plan) Rate:	The rates established by TennCare (Medicaid) or any subsequent plan for a particular medically necessary service or treatment.